

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested. Claims 1-20 are pending, Claims 2 and 9 having been amended by way of the present amendment.

In the outstanding Office Action Claims 1, 4, 8 and 11 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bousquet et al. (U.S. Patent No. 6,650,906); Claims 5, 6, 12 and 13 were indicated as being rejected over Bousquet et al. in view of Hamalainen et al. (U.S. Patent No. 6,289,217); Claims 7 and 14 were indicated as being unpatentable over Bousquet et al. in view of Kaku (U.S. Patent No. 6,072,998); Claims 15, 16, 18 and 19 were rejected as being unpatentable over Bousquet et al. in view of Hamalainen et al. in view of Burt et al. (U.S. Patent No. 6,253,077, hereinafter Burt); and Claims 2, 3, 9, 10, 17 and 20 were indicated as containing allowable subject matter.

Applicants appreciatively acknowledge the indication of allowable subject matter. In response, Claims 2 and 9 have been rewritten in independent form. Moreover, the remaining claims are maintained in their present condition because, as will be discussed below, it is believed that by perfecting priority to Japanese priority documents JP 2000-105231 and JP 2000-105232, Bousquet et al. is not prior art with regard to the presently pending claims.

Accordingly, because Bousquet et al. is the primary reference in each of the rejections, by perfecting priority it is respectfully submitted that each of the pending claims patentably defines over the asserted prior art.

Moreover, according to M.P.E.P. § 201.15, Applicants perfect priority by filing English language translations of Japanese priority documents 2000-105231 and 2000-105232, each of which have a priority date of June 6, 2000. June 6, 2000 precedes the September 11, 2000 filing date of Bousquet et al. Thus, Bousquet et al. is not prior art with regard to any of the pending claims.

As Bousquet et al. is the primary reference in each of the rejections of the pending claims, and the secondary or tertiary references including Hamalainen et al. and Burt, as examples, do not teach the features relied upon in Bousquet et al. (particular with regard to the method of controlling transmission power) it is respectfully submitted that each of the pending claims are patentable over the asserted prior art. Moreover, the secondary references are related to the admitted prior in the present patent specification, directed to receiving quality information items for a number of mobile stations, and controlling the transmission power to the mobile stations based on predetermined receiving quality information items by the base station so that the multi-case signal sent by the base station can be received by all the mobile stations. Once again it is believed that the secondary and tertiary references do not teach or suggest the subject matter for which Bousquet et al. has been asserted, namely the features contained in independent Claims 1, 8, 15 and 18. Therefore, by perfecting priority the outstanding Office Action does not create a *prima facie* case of obviousness, nor are the pending claims anticipated by the asserted prior art.

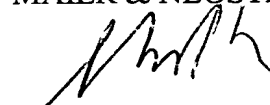
Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-20, as amended, is patentable over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
BDL:smi

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record

Registration No. 40,073

Robert T. Pous
Registration No. 29,099